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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
.10/511,107	10/14/2004	Helmut Winterling	53430	8533

26474 7590 11/15/2006

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EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,107

Applicant(s)

WINTERLING ET AL.

Examiner

Ana L. Woodward

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1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 31, 2006
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "obtainable" is indefinite in that it is unclear if or how said objectionable term limits the claimed subject matter.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4,595,730 (Blondel et al).

Blondel et al disclose (crosslinked) unsaturated polyamide polymers which comprise a polyamide chain terminated at one end by a group containing at least one double bond. The polyamides are prepared by a process comprising carrying out the reaction of the monomers suitable for forming the polyamide in the presence of the unsaturated compound. Preferred unsaturated compounds include unsaturated monoacids having the formula $R_1R_2C=CR_3(CH_2)_nCOOH$, wherein R_1 , R_2 and R_3 are hydrogen and $n = 0$ to 17 , which embraces the presently claimed hexenoic acid. Generally, 1 mole of unsaturated compound per 2 to 120 moles of polyamide monomer is used.

In essence, the disclosure of Blondel et al differs from the present claims in not expressly exemplifying hexenoic acid as the unsaturated compound. In this regard, however, it is noted that patentees disclose that unsaturated compounds carrying carboxyl groups are advantageous and easily accessible and expressly disclose and exemplify the homologous undecylenic acid as a suitable unsaturated acid compound (Table 1, column 2, lines 60-64). It is maintained that it would have been obvious to one having ordinary skill in the art to have employed hexenoic acid as the unsaturated compound for chain terminating the polyamide not only because it is clearly embraced by applicants' general disclosure but also because its homologues are clearly taught as preferred unsaturated compounds. Homologues are a class of compounds differing only by methylene linkages and possessing similar structures. Accordingly, it would have been obvious to one having ordinary skill in the art to have employed hexenoic acid, which is clearly embraced by applicant's preferred unsaturated acid formula, with the reasonable expectation of success. Thus, absent evidence of unusual or unexpected results for the use of hexenoic acid, as compared to homologous acids, no patentability can be seen in the presently claimed subject matter.

Response to Arguments

4. Applicant's arguments filed August 31, 2006 have been fully considered and are persuasive to the extent that the 35 USC 102 rejection over Blondel et al has been withdrawn. The arguments pertaining to a theoretical 35 USC 103 rejection over Blondel et al, however, are not persuasive. The tests described in the Test Report on page 6 of applicants' remarks are not well taken because 1) it is unclear as to whether they are based on back-to-back comparisons, i.e., direct comparisons, and 2) they do not compare the closest embodiment of the prior art, i.e., the undecylenic acid embodiment.

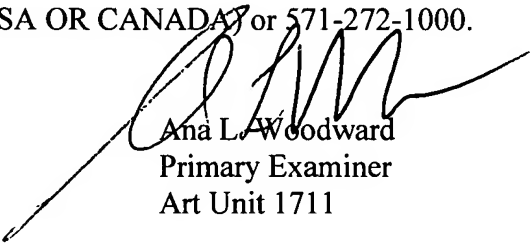
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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ana L. Woodward
Primary Examiner
Art Unit 1711
